



Association of Local Government Auditors

Model Legislation Guidelines for Local Government Auditors

**Third Edition
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INTRODUCTION

Government auditing is a cornerstone of good public sector governance and stewardship. The Association of Local Government Auditors (ALGA) supports the establishment and continuous improvement of independent financial and performance auditing in local government.

Local governments establish, staff, and maintain independent audit functions to enhance accountability, earn and increase citizen confidence and respect for government, and provide an independent and objective perspective.

In 1992, ALGA (then known as the National Association of Local Government Auditors) issued its first edition of "Guidelines and Model Authorizing Legislation for Local Government Audit Functions." A second edition was issued in 1999. With this third edition, the approach has been modified to focus on important elements to consider when establishing an audit function or updating existing Charter or Code language. These changes to the guidelines take into consideration differences in organizational structures (elected or legislatively appointed), enabling laws, recognized government auditing standards and public expectations.

To establish an audit function in one's own local jurisdiction, it is recommended that the following be addressed at a minimum:

Independence

When establishing an audit function, it is very important that the auditors be viewed as impartial and objective in conducting their work. In order to be independent in fact and appearance, auditors must be free from conflicts of interest and free from interference in how the work is conducted and reported. Government Auditing Standards identify three types of impairments to independence:

- Personal impairments are conflicts that arise from relationships, financial interests, other job responsibilities and beliefs.
- External impairments result from interference by the audited entity or oversight body that affects the auditor's ability to conduct work necessary to achieve the objective or report results.
- Organizational impairments are conflicts that arise from reporting relationships within the audited entity and assignment of incompatible duties to the audit function.

Auditors must have systems in place to identify, resolve, or report impairments to independence and must protect their independence by not performing management functions and by not auditing their own work.

Standards

Professional standards provide an overall framework for ensuring that auditors have competence, integrity, objectivity and independence in planning, conducting and reporting their work. Legislation should require adherence to recognized government auditing standards such as the Government Auditing Standards issued by the Comptroller General of the United States. Also, the International Standards for the Professional Practice of Internal Auditing, issued by the Institute of Internal Auditors, is used by internal auditors in the private sector and in some local governments. Both sets of standards incorporate, by reference, the American Institute of Certified Public Accountants' standards for financial statement audits.

Independent Audit Committees

Governments must establish protections to ensure that audit functions are empowered to report significant issues to appropriate oversight authorities. One means of accomplishing this protection is through creation of an independent audit committee. To be independent, the audit committee is selected by the legislative body, and may be a subcommittee of the body or composed of both government and community leaders. Recognized audit authorities have amended their practice guides to recommend that audit committees are independent of management, and that committee members are collectively knowledgeable about financial matters.

Other Key Elements

The following are other key elements to consider:

- Assure that the auditor has unrestricted access to local government employees, officials, records, vendor contracts and reports.
- Negate the influence of partisan politics on the selection and operations of the appointed auditor or on the operations of the elected auditor.
- Require a report, written or in some other retrievable form, containing relevant background information, findings and recommendations regarding audited activities. Communicate the results to the audit committee, legislative body, management and the public.
- Require that responsible government managers promptly respond in writing, within a time specified, to audit recommendations explaining what actions are planned or have been taken to deal with problems identified in audit reports.
- Require follow-up on significant findings and recommendations from previous audits to determine whether timely and appropriate corrective actions have been taken by management.
- Ensure that all contracts contain a right-to-audit provision.
- Assign the auditor responsibility to coordinate and monitor all audits and audit related services received by the local government entity including those performed by public accountants, consultants or audit organizations of the entity and its subdivisions.
- Provide for periodic peer reviews of the audit function.

Existing Legislation

The guidelines provided are meant to be considered in establishing legislation that will make sense for your own particular community. It is important to be aware of existing laws, which may be in conflict with the proposed legislation, and to address any conflicts with the help of attorneys and specialists, before bringing legislation forward for a vote by the governing body or the citizens. In some cases, it may be necessary to amend laws at a higher level of government. For example, many states and provinces have open meeting and public records laws that encourage transparency or disclosure of government operations. Therefore, audit reports are released to the public. Yet, with regard to allegations of fraud, waste and abuse, jurisdictions may have adopted laws limiting disclosure of information until an investigation is complete.

The local governing body will enact legislation in various forms, depending on the particular state or provincial constitution or statutes. The information contained in this document is to be considered as general guidelines to be adapted in the context of those applicable laws.

For Additional Information or Copies

This publication was produced by the Association of Local Government Auditors (ALGA).
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MODEL LEGISLATION GUIDELINES FOR LOCAL GOVERNMENT AUDITORS

The Charter or Code to establish an audit function is an important document. It sets forth the qualifications, duties, powers and manner of securing the office of the local government Auditor. The local governing body will enact legislation in various forms, depending on the particular state or provincial constitution or statutes. The information contained in this document is to be considered as general guidelines to be adapted in context with applicable state or provincial laws. Many of the elements described on the following pages are applicable to an elected or appointed Auditor.

Ordinance/Resolution/Policy Statement

WHEREAS, public officials, government managers, and private citizens want and need to know not only whether government funds are handled properly and in compliance with laws and regulations, but also whether public programs are achieving the purposes for which they were authorized and funded, and, whether they are doing so efficiently and economically.

WHEREAS, an independent auditing function can provide objective information on the operations of government programs, assist managers in carrying out their responsibilities, and help ensure full accountability to the public.

WHEREAS, recognized government auditing standards provide a framework for improved government decision-making, oversight and accountability.

WHEREAS, the independence and public accountability of the Auditor can be assured by provision of an (elected or legislatively appointed) Auditor.

Additional Key Elements

Local government charters, ordinances or policy statements establishing an independent audit function (either legislative or elected) should contain the following key elements:

Organizational Independence – Establishment of the Audit Function

(Elected or Appointed) The (NAME OF OFFICE/DEPARTMENT) is hereby established.

(Appointed Auditor) The (CITY/COUNTY) Auditor shall be designated through appointment by a majority vote of the (LEGISLATIVE BODY).

Term

(Elected Auditor) The term of the Auditor shall be _____ years.

(Appointed Auditor) The Auditor shall serve a minimum term of _____ years, unless removed for cause by a vote of at least two-thirds of the legislative body. The Auditor may be reappointed at the end of the term of office.

Nonpartisanship

The position of the Auditor shall be nonpartisan.

Restrictions on Other Candidacy

Filing for an elective office over which the Auditor has audit jurisdiction will be the same as resignation, effective as of the date of filing.

Qualifications - Competent Leadership

The Auditor shall possess adequate professional proficiency for the job, demonstrated by relevant certifications such as Certified Internal Auditor (CIA), Certified Public Accountant (CPA) or Chartered Accountant (CA) or have an advanced degree in a related field with at least five (5) years of experience in government auditing, evaluation or analysis. The Auditor shall have a bachelor's degree in accounting, business administration, public administration or related field. If financial audits are performed, the Auditor must be a CPA or CA.

Compensation

The Auditor shall be compensated at a level consistent with the jurisdiction's department directors. Experience, performance, certifications and advanced degrees may be taken into account in determining compensation.

Funding

Sufficient funds shall be proposed and approved to carry out the responsibilities specified herein.

(Elected or Appointed) Auditor may include: The (CITY/COUNTY) Auditor's salary shall be set by the legislative body and reviewed annually. (In some jurisdictions, specific guidelines for the Auditor's salary and budget are established in the Charter or Code.)

Appointment of Employees

The Auditor shall have the power to appoint, employ, and remove such assistants, employees and personnel as deemed necessary for the efficient and effective administration of the affairs of the office and to prescribe their duties, scope of authority and qualifications.

Professional Development

Sufficient resources shall be made available to the Auditor and staff to ensure appropriate professional development, continuing professional education and compliance with applicable certification requirements.

Powers and Duties: Scope of Audits

The Auditor shall have authority to conduct financial and performance audits of all departments, offices, boards, activities, agencies and programs of the entity in order to independently and objectively determine whether:

1. Activities and programs being implemented have been authorized by government Charter or Code, state or provincial law or applicable federal law or regulations and are being conducted and funds expended in compliance with applicable laws;
2. The department, office, or agency is acquiring, managing, protecting, and using its resources, including public funds, personnel, property, equipment, and space, economically, efficiently, and effectively and in a manner consistent with the objectives intended by the authorizing entity or enabling legislation;
3. The entity, programs, activities, functions, or policies are effective, including the identification of any causes of inefficiencies or uneconomical practices;
4. The desired result or benefits are being achieved;
5. Financial and other reports are being provided that disclose fairly, accurately, and fully all information required by law, to ascertain the nature and scope of programs and activities, and to establish a proper basis for evaluating the programs and activities including the collection of, accounting for, and depositing of, revenues and other resources;
6. Management has established adequate operating and administrative procedures and practices, systems or accounting internal control systems and internal management controls; and
7. Indications of fraud, abuse or illegal acts are valid and need further investigation.

Standards

Audits shall be conducted in accordance with recognized government auditing standards.

Audit Committee

Note: An audit committee may be established in an advisory capacity to provide recommendations for the Auditor's salary, work program, review of the audit function and hiring of external auditors. An elected Auditor may consider establishing an audit committee to ensure the avoidance of any conflict of interest issues. Also, an appointed Auditor may prefer an audit committee independent of the entity's management and administrative services. The following describes a possible audit committee structure for an appointed Auditor.

1. To ensure independence of the audit function, an audit committee is hereby established. The audit committee shall consist of ___ voting members; ___ (Council or Board Members) and ___ at-large members, who shall be appointed by the legislative body. The ___ at-large members shall be residents of the (CITY/COUNTY) with

expertise in auditing, preferably internal or management auditing, and shall be either a Certified Public Accountant, Certified Internal Auditor, or Certified Management Accountant. (Add language requiring staggered terms.)

2. The audit committee shall consult with the (CITY/COUNTY) Auditor regarding technical issues and work to assure maximum coordination between work of the Auditor's office and external audit efforts.
3. The audit committee shall meet as needed to perform its duties but shall not meet less than once quarterly and shall be responsible for:
 - a. Reviewing the Auditor's annual plan and budget before submission to the legislative body.
 - b. Reviewing audit reports before the final audit report is issued;
 - c. Transmitting audit reports to the legislative body;
 - d. Monitoring follow-up on reported findings to assure corrective action is taken;
 - e. Reporting to the legislative body on problems or problem areas at such times as deemed appropriate;
 - f. Performing an evaluation of the (CITY/COUNTY) Auditor annually and reporting the results of the evaluation and effectiveness of the audit function to the legislative body;
 - g. Providing oversight of the external audit; and,
 - h. Evaluating the findings and recommendations of the peer review as required by recognized government auditing standards.

Audit Schedule

At the beginning of each calendar/fiscal year, the Auditor shall submit a one-to-five-year audit schedule to the legislative body or audit committee for review and comment. The schedule shall include the proposed plan, and the rationale for the selections, for auditing departments, offices, boards, activities, subcontractors and agencies for the period. This schedule may be amended after review with the legislative body or audit committee, but the Auditor shall have final authority to select the audits planned.

In the selection of audit areas and audit objectives, the determination of audit scope and the timing of audit work, the Auditor should consult with federal and state or provincial auditors and external auditors so that the desirable audit coverage is provided and audit effort is properly coordinated.

Access to Employees, Records and Property

All officers and employees of (NAME OF ENTITY) shall furnish to the Auditor unrestricted access to employees, information and records (including electronic data) within their custody regarding powers, duties, activities, organization, property, financial transactions, contracts and methods of business required to conduct an audit or otherwise perform audit duties. In addition, they shall provide access for the Auditor to inspect all property, equipment and facilities within their custody. If such officers or employees fail to produce the aforementioned access and/or information, the Auditor may initiate a search to be made and exhibits to be taken from any book, paper or record of any such official or employee, or outside contractor or subcontractor, except as governed by statute. Further, all contracts with outside contractors and subcontractors shall contain a "right-to-audit" clause and provide for Auditor access to the contractor's employees and to all financial and performance related records, property, and equipment purchased in whole or in part with governmental funds.

Agency Response

A final draft of the audit report will be forwarded to the audited agency and the chief executive officer for review and comment regarding factual content prior to its release. The agency must respond in writing, specifying (i) agreement with audit findings and recommendations or reasons for disagreement with findings and/or recommendations; (ii) plans for implementing solutions to issues identified; (iii) a timetable to complete such activities. The response must be forwarded to the Auditor within (SPECIFY TIME FRAME). The Auditor will include the agency's response in the report. If no response is received, the Auditor will note that fact in the transmittal letter and will release the audit report.

Audit Reports

Each audit will result in a report, written or in some other retrievable form. The report shall contain relevant background information and findings and recommendations, and shall communicate results to the audit committee, legislative body and/or management. The report shall also be available for public examination.

The Auditor shall submit each audit report to the legislative body and shall retain a copy as a permanent record. A copy shall be retained in accordance with public records law.

Report of Irregularities

If, during an audit, the Auditor becomes aware of abuse or illegal acts or indications of such acts that could affect the governmental entity, the Auditor shall report the irregularities to the audit committee, the chief executive officer, legislative counsel or legislative body. In the case of an Auditor appointed by the chief executive officer, if the chief executive officer is believed to be a party to abuse or illegal acts, the Auditor shall report the acts directly to the legislative body. If it appears that the irregularity is criminal in nature, the Auditor shall notify the chief prosecuting authority in addition to those officials previously cited.

Annual Report

The Auditor shall submit an annual report to the legislative body within (NUMBER OF DAYS) after the calendar/fiscal year indicating audits completed, major findings, corrective actions taken by administrative managers, and significant issues which have not been fully addressed by management.

Audit Follow-up

The Auditor shall follow-up on audit recommendations as practical to determine if corrective action has been taken. The Auditor may request periodic status reports from audited agencies regarding actions taken to address reported deficiencies and audit recommendations.

Contract Auditors, Consultants and Experts

Within budget limitations, the Auditor may obtain the services of Certified Public Accountants, qualified management consultants, or other professional experts necessary to perform audit work. An audit that is performed by contract must be conducted by persons who have no financial interests in the affairs of the governmental entity or its officers. The Auditor will coordinate and monitor auditing performed by certified public accounting firms or other organizations employed under contract by the (NAME OF ENTITY) to assist with audit related activities.

Contracting for the external audit will follow (NAME OF ENTITY)'s normal contracting processes. The selection of a certified public accounting firm for the annual financial audit must be approved by (LEGISLATIVE BODY).

Peer Reviews

The audit activities of the Auditor's office shall be subject to a peer review in accordance with applicable government auditing standards by a professional, nonpartisan objective group utilizing guidelines endorsed by the Association of Local Government Auditors (ALGA). A copy of the written report of this independent review shall be furnished to each member of the (LEGISLATIVE BODY).

The peer review will use applicable government auditing standards to evaluate the quality of audit effort and reporting. Specific quality review areas shall include staff qualifications, adequacy of planning and supervision, sufficiency of workpaper preparation and evidence, and the adequacy of systems for reviewing internal controls, fraud and abuse, program compliance, and automated systems. The peer review will also assess the content, presentation, form, timeliness, and distribution of audit reports. The (NAME OF ENTITY) shall pay for the costs of the peer review from the Auditor's budget.